

## **REMARKS**

Upon entry of this amendment, claims 1, 2, 4, 7-14, 17, 18, 22-26, 28-31, 34-36, 38-41, 44 and 45 are all the claims currently pending. Claims 5, 6, 15, 16, 19-21, 32, 33, 42 and 43 have been canceled, and claim 45 has been added as a new claim. No new matter has been added.

### **I.     Objections to the Specification**

The Examiner has objected to the specification as allegedly failing to provide proper antecedent basis for the subject matter recited in claims 19-21, and has indicated that the amendment of September 18, 2006 introduced new matter into the specification.

Regarding claims 19-21, Applicants note that these claims have been canceled by this amendment. In this regard, however, it is noted that certain features recited in claims 19 and 21 have been incorporated into independent claims 1, 25 and 35. With respect to antecedent basis for such features, Applicants note that at least page 42 of the original specification provides proper antecedent basis for such features.

Further, regarding the Examiner's position that the original specification did not provide support for a "judging unit which judges whether ... to destroy all parts of the data block which includes data relating to the digital content and is judged as needing to be nullified", while Applicants respectfully disagree with the Examiner's position, in order expedite prosecution, Applicants are providing herewith a verified English translation of the priority document (which has been incorporated by reference into the present application) which provides explicit support for such language (see paragraph [0033] of the verified English translation).

In view of the foregoing, Applicants kindly request that the Examiner reconsider and withdraw the objections to the specification.

## **II. Claim rejections under 35 U.S.C. § 112, first paragraph**

Claims 19-21 were rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement for the same reasons as discussed above with respect to the objections to the specification. As noted above, while claims 19-21 have been canceled by this amendment, it is noted that certain features of claims 19 and 21 have been incorporated into claims 1, 25 and 35.

For at least the same reasons as discussed above with respect to the objections to the specification, Applicants respectfully submit that claims 1, 25 and 35 satisfy the written description requirement. Accordingly, Applicants kindly request that the rejection under 35 U.S.C. § 112, first paragraph be reconsidered and withdrawn.

## **III. Claim Rejections under 35 U.S.C. § 101**

The Examiner has rejected claims 1, 2 and 4-24 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. In particular, the Examiner has taken the position that although these claims are directed to a “device”, that the features recited in the claims could be performed by software and, therefore, that the claims are merely a program listing per se. Applicants respectfully disagree.

In particular, Applicants note that while the specification indicates that the “stated object can also be achieved by a data nullification program” (see page 18, lines 10-11), this language clearly shows that the specification does not limit the invention to a program. As such, Applicants respectfully submit that the Examiner cannot force Applicants to claim the invention as a program embodied on a computer-readable medium.

In this regard, Applicants note that if the Examiner's rationale is correct (i.e., that applicants can only claim a program embodied on a computer-readable medium anytime a function is disclosed as having the ability to be carried out by software), then the patent office would be preventing patent applicants from ever patenting a hardware device whose functionality could also be implemented in software. As this is clearly not the stance of the patent office, and is not in any way consistent with 35 U.S.C. § 101, Applicants respectfully request that the Examiner reconsider and withdraw the above-noted rejection.

#### **IV. Claim Rejections under 35 U.S.C. § 102**

The Examiner has rejected claims 1, 12-14, 31 and 41 under 35 U.S.C. § 102(b) as being anticipated by Sharp (DE 4433868).

Initially, regarding claim 1, Applicants note that this claim has been amended so as to incorporate the majority of the features recited in claims 16, 19 and 21. In particular, claim 1 has been amended to recite the features of a sequential nullifying unit operable to destroy only a part of a data block judged as needing to be nullified, the part including data necessary to utilize remaining parts of the data block; a processing capacity judging unit operable to judge whether the data nullification device has a processing capacity sufficient to destroy all data which is judged as needing to be nullified; and a total nullifying unit operable to destroy data which is included in the data block judged as needing to be nullified and is not destroyed by the sequential nullifying unit, only when the processing capacity judging unit judges that the data nullification device has the sufficient processing capacity.

Regarding the Sharp reference, Applicants note that this reference discloses a technique of disabling, when data is moved between disks, the unauthorized act of generating a copy by powering off halfway through the movement, by means of deleting reproduction control information prior to data transmission.

Applicants respectfully submit, however, that Sharp does not disclose, suggest or otherwise render obvious the above-noted features recited in amended claim 1. Accordingly, Applicants submit that claim 1 is patentable over Sharp, an indication of which is kindly requested.

Regarding claims 12-14, Applicants note that these claims depend from claim 1 and are therefore considered patentable at least by virtue of their dependency. Regarding claims 31 and 41, Applicants note that these claims depend from claims 25 and 35, respectively. In this regard, Applicants note that claims 25 and 35 have been amended in a similar manner as claim 1. Accordingly, Applicants submit that claims 25 and 35, and all claims that depend therefrom, are also patentable over Sharp.

#### **V. Claim Rejections under 35 U.S.C. § 103**

Claims 1, 2, 4-8, 12-18, 25-28, 31-33, 35, 36 and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsushita (U.S. 6,694,022) in view of Thompson (U.S. 6,341,342); claims 9-11, 29, 30, 39 and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsushita in view of Thompson, and further in view of Garfinkle (U.S. 5,400,402); and claims 19-24, 34 and 44 were rejected under 35 U.S.C. § 103(a) as being

unpatentable over Matsushita in view of Thompson, and further in view of Masinter (U.S. 5,742,807).

Claim 1, as amended, recites the features of a sequential nullifying unit operable to destroy only a part of a data block judged as needing to be nullified, the part including data necessary to utilize remaining parts of the data block; a processing capacity judging unit operable to judge whether the data nullification device has a processing capacity sufficient to destroy all data which is judged as needing to be nullified; and a total nullifying unit operable to destroy data which is included in the data block judged as needing to be nullified and is not destroyed by the sequential nullifying unit, only when the processing capacity judging unit judges that the data nullification device has the sufficient processing capacity. Applicants respectfully submit that the applied prior art references, either alone or in combination, do not teach or suggest the above-noted features recited in amended claim 1.

Regarding the Matsushita reference, Applicants note that this reference discloses a digital broadcasting receiver which enables a user to view a “copy-disallowed” broadcast at a time later than when the broadcast is received, while satisfying the “copy-disallowance” condition of the broadcast (see col. 1, lines 62-67). In particular, in Matsushita, it is described that when such a stored digital broadcast is read, upon detecting a “copy-disallowance signal”, the digital broadcast is simultaneously erased by overwriting the broadcast data with “0” (see col. 7, lines 18-24 and col. 6, lines 51-54).

Regarding the Masinter reference, Applicants note that this reference discloses that an entire document can be made unreadable by only erasing a one-way hash key (see col. 2, lines 60-61).

Thus, while Matsushita discloses the ability to overwrite all data of a stored digital broadcast, and Masinter discloses the ability to make an entire document unreadable by only erasing a one-way hash key, Applicants respectfully submit that Matsushita and Masinter do not teach any type of relationship between the destruction of data and a processing capacity.

As such, Applicants respectfully submit that the combination of Matsushita and Masinter does not teach or suggest the features of a processing capacity judging unit operable to judge whether the data nullification device has a processing capacity sufficient to destroy all data which is judged as needing to be nullified, and a total nullifying unit operable to destroy data which is included in the data block judged as needing to be nullified and is not destroyed by the sequential nullifying unit, only when the processing capacity judging unit judges that the nullification device has the sufficient processing capacity, as recited in amended claim 1.

Further, Applicants respectfully submit that the Thompson reference and the Garfinkle reference do not cure this deficiency of Matsushita and Masinter. Accordingly, Applicants respectfully submit that the cited prior art references do not disclose, suggest or otherwise render obvious all of the features recited in amended claim 1.

Thus, Applicants submit that claim 1 is patentable over the cited prior art, an indication of which is kindly requested. Claims 2, 4, 7-14, 17, 18, 22-24 and 45 depend from claim 1 and are therefore considered patentable at least by virtue of their dependency.

Regarding claims 25 and 35, Applicants note that both of these claims have been amended to recite the features of a sequential nullifying step of destroying only a part of a data block judged as needing to be nullified, the part including data necessary to utilize remaining parts of the data block; a second judging step of judging whether a sufficient processing capacity

exists to destroy all data which is judged as needing to be nullified; and a total nullifying step of destroying data which is included in the data block judged as needing to be nullified and is not destroyed in said sequential nullifying step, only when said second judging step judges that there is sufficient processing capacity to destroy all data which is judged as needing to be nullified.

For at least similar reasons as discussed above with respect to claim 1, Applicants respectfully submit that the cited prior art references do not teach, suggest or otherwise render obvious at least the above-noted feature recited in claims 25 and 35. Accordingly, Applicants submit that claims 25 and 35 are patentable over the cited prior art, an indication of which is kindly requested. Claims 26, 28-31 and 34 depend from claim 25, and claims 36, 38-41 and 44 depend from claim 35. Accordingly, Applicants submit that these claims are patentable at least by virtue of their dependency .

## **VI. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited.

If any points remain in issue which the Examiner feels may best be resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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